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REMARKS

This document is in response to the Office Action dated December 15, 2005.

The Examiner has rejected Claims 4/10 and 12 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner states that there is insufficient antecedent basis for the limitation, "the nose cap". Claims 4, 10 and 12 have been cancelled.

The Examiner has stated that Claims 4, 6, 9, 16 and 18 would be allowable if written in independent form. The limitations of Claim 4 have been incorporated into Claim 1, which would make Claim 1 allowable. Claim 6 has been cancelled and Claim 9, which had been dependent on Claim 4, has been made dependent on Claim 1. Claims 16 and 18 remain dependent on Claim 14.

Claims 1-3, 5, 10-15, 17, 22-25 and 29 have been rejected as being anticipated by Gibson et al. This rejection is respectively traversed. Claim 1 has been amended as set forth above. Claims 2, 3, 5, and 10-13 have been cancelled.

The Examiner has stated that Gibson et al. discloses a less lethal projectile comprising a body having a concentric cavity, a nose cap attached to the body, the nose cap having a plurality of

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scores/slits therein which will open upon impact allowing fluid to escape. There is a critical difference, however, between the projectile of Gibson et al. and Applicants' projectile. The projectile of Gibson et al. is designed to have two chambers which are filled with material. Gibson et al.'s rear chamber 23 is filled with components such as an irritant or other noxious chemical. Gibson et al.'s front chamber 7 is filled with substances such as a coloring agent, etc. Gibson et al. cannot have slits in the front portion of this projectile or the coloring agent would pour out and not stay contained therein. Applicants' projectile, on the other hand, has the fluid contained only in the rear portion behind a frangible disk, while the nose portion, which has slits therein, is empty.

As described in Applicants' specification, upon impact, the nose portion of Applicants' projectile collapses and the slits are further opened to allow release of the fluid in the body portion of Applicants' projectile, which has passed into the nose cap portion when the frangible disk is ruptured on impact.

The Examiner also states that Gibson et al. describes a projectile comprising a limiting column contained in the body and a second limiting column contained in the cap. However, as described on page 9 lines 200 through page 10 lines 219 of the specification, Gibson has no such device as limiting columns 110 and 114, shown in

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Applicants' Figs. 6 and 7, which stop the movement of the center of the cap, which aides in forcing the slits in the nose cap open, so that the fluid may escape through the slits to splash the target. While Gibson, et al. mentions that his projectile can include one or more indentations, depressions or scoring to promote rupture, Gibson et al. is clearly talking about weakening the structure of the projectile and not providing slits therethrough, since as stated above, if there were slits, the fluid present in the front portion of Gibson et al.'s projectile would simply escape. Gibson et al. goes on to state in column 3 lines 24-42, that preferably the projectile includes no indentations, scoring or depressions, as such dispersion promoting features are not critical to the functionality of the projectile's of his invention. On the other hand, the slits in the nose cap of Applicants' invention are critical to the projectile performing as described.

Applicants' independent claim 14, as well as independent claim 26, clearly describe a projectile which has a fluid payload only in the body portion and a nose cap attached to the body having a plurality of slits therein. The claims further go on to state that a frangible disk seals the fluid in the cavity in the body and the frangible disk ruptures at impact, allowing the fluid to pass into the empty nose cap and escape through the slits in the nose cap.

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This arrangement is clearly not contemplated by Gibson et al., which requires fluid in both portions of his projectile.

The Examiner has rejected claims 7, 8, 19 and 20 as unpatentable over Gibson et al. as applied to claims 1 and 14 above. The Examiner states that Gibson et al. discloses the claimed projectile except the specific fluid material. As stated above, Gibson et al does not disclose the claimed projectile for the reasons set forth in detail above. With respect to the particular fluid being utilized within the projectile, Applicants object to the Examiner stating that it is within the general skill of a worker in the art to select a known material on the basis of its suitability. In this case, looking at page 4 line 104 through page 5 line 111 of the specification, the inventors point out that a particular viscosity is preferred in order to prevent the fluid from spinning inside the spinning projectile. If the fluid attains a sufficient level of spin it will destabilize the projectile causing it to tumble. This is not within the general skill of a worker in the art and it is not a matter of obvious design choice.

Claims 24 - 28 were rejected as being unpatentable over Gibson et al. The Examiner stated that Gibson et al. discloses the claimed projectile, except the specific materials for the frangible disk. Gibson et al. has been discussed in detail above with respect to failing to disclose the claimed projectile.

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Manufacturing the frangible disk from a polymer coated cardboard is not within the general skill of a worker in the art and not a matter of obvious design choice. The type of liquid filled less lethal projectile invented by Applicants is not common, nor has it been disclosed before in the field and there are no workers in the field who would be familiar with any choice of materials for the frangible disk involved in this device.

The prior art made of record and not relied upon adds nothing to the disclosure of Gibson et al. to disclose Applicants' invention.

In conclusion, the reference cited, Gibson et al, fails to suggest Applicants' less lethal projectile having a fluid contained in a rear body cavity with a nose cap having slits therein which expand upon impact and through which the fluid is dispersed.

In view of the amendment to the claims and the arguments presented herein, Applicants urge that the claims are now in condition for allowance and early allowance is respectfully requested.

#### Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Sanford Astor (Reg. No. 20,748) at the

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telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Respectfully submitted,

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